

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 233

Introduced by Senator Figueroa

February 15, 2005

An act to amend ~~Section 4928~~ Sections 4927, 4928, 4934, and 4937 of the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as amended, Figueroa. Acupuncture Board.

The Acupuncture Licensure Act ~~establishes~~ *provides for the licensure and regulation of acupuncturists by the Acupuncture Board and requires the board to enforce and administer the provisions of the act.* ~~These~~ *Existing law authorizes the board to employ necessary personnel and appoint an executive officer. The provisions establishing the board and providing for the employ of personnel and the appointment of an executive officer will become inoperative on July 1, 2006, and will be repealed on January 1, 2007. The act authorizes a licensee to practice acupuncture, as defined, and to perform or prescribe the use of oriental massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to provide, maintain, and restore health. Existing law makes it a crime to practice acupuncture without a license.*

This bill would instead make ~~these~~ *the provisions establishing the board and providing for the employ of personnel and the appointment of an executive officer inoperative and repealed on unspecified dates on January 1, 2006, and would repeal them on July 1, 2006. The bill would include in the definition of acupuncture the diagnosis of a person for the purpose of providing acupuncture treatment. The bill would also authorize a licensee to diagnose for the purpose of*

performing or prescribing the use of oriental massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to promote, maintain, and restore health.

By expanding the definition of acupuncture, the unauthorized practice of which is a crime, this bill would impose a state-mandated local program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4927 of the Business and Professions
2 Code is amended to read:

3 4927. As used in this chapter, unless the context otherwise
4 requires:

5 (a) "Board" means the Acupuncture 'Board".

6 (b) "Person" means any individual, organization, or corporate
7 body, except that only individuals may be licensed under this
8 chapter.

9 (c) "Acupuncturist" means an individual to whom a license
10 has been issued to practice acupuncture pursuant to this chapter,
11 which is in effect and is not suspended or revoked.

12 (d) "Acupuncture" means the stimulation of a certain point or
13 points on or near the surface of the body by the insertion of
14 needles to prevent or modify the perception of pain or to
15 normalize physiological functions, including pain control, for the
16 treatment of certain diseases or dysfunctions of the body and
17 includes the techniques of electroacupuncture, cupping, and
18 moxibustion. *"Acupuncture" also includes the diagnosis of a*
19 *person for the purpose of providing acupuncture treatment.*

20 ~~SECTION 1.~~

21 SEC. 2. Section 4928 of the Business and Professions Code is
22 amended to read:

23 4928. The Acupuncture Board, which consists of nine
24 members, shall enforce and administer this chapter.

25 This section shall become inoperative on _____ January 1,
26 2006, and, as of _____ July 1, 2006, is repealed, unless a later
27 enacted statute, which becomes effective on or before _____ July

1 1, 2006, deletes or extends the dates on which it becomes
2 inoperative and is repealed.

3 The repeal of this section renders the board subject to the
4 review required by Division 1.2 (commencing with Section 473).

5 *SEC. 3. Section 4934 of the Business and Professions Code is*
6 *amended to read:*

7 4934. The board shall employ personnel necessary for the
8 administration of this chapter; however, the board may appoint
9 an executive officer who is exempt from the provisions of the
10 Civil Service Act.

11 This section shall become inoperative on ~~July~~ January 1, 2006,
12 and, as of ~~January 1, 2007~~ July 1, 2006, is repealed, unless a later
13 enacted statute, which becomes effective on or before ~~January 1,~~
14 ~~2007~~ July 1, 2006, deletes or extends the dates on which it
15 becomes inoperative and is repealed.

16 The repeal of this section renders the board subject to the
17 review required by Division 1.2 (commencing with Section 473).

18 *SEC. 4. Section 4937 of the Business and Professions Code is*
19 *amended to read:*

20 4937. An acupuncturist's license authorizes the holder
21 thereof:

22 (a) To engage in the practice of acupuncture.

23 (b) To *diagnose for the purposes of, and to perform or*
24 *prescribe the use of, oriental massage, acupressure, breathing*
25 *techniques, exercise, heat, cold, magnets, nutrition, diet, herbs,*
26 *plant, animal, and mineral products, and dietary supplements to*
27 *promote, maintain, and restore health. Nothing in this section*
28 *prohibits any person who does not possess an acupuncturist's*
29 *license or another license as a healing arts practitioner from*
30 *performing, or prescribing the use of any modality listed in this*
31 *subdivision.*

32 (c) For purposes of this section, a "magnet" means a mineral
33 or metal that produces a magnetic field without the application of
34 an electric current.

35 (d) For purposes of this section, "plant, animal, and mineral
36 products" means naturally occurring substances of plant, animal,
37 or mineral origin, except that it does not include synthetic
38 compounds, controlled substances or dangerous drugs as defined
39 in Sections 4021 and 4022, or a controlled substance listed in

1 Chapter 2 (commencing with Section 11053) of Division 10 of
2 the Health and Safety Code.

3 (e) For purposes of this section, “dietary supplement” has the
4 same meaning as defined in subsection (ff) of Section 321 of
5 Title 21 of the United States Code, except that dietary
6 supplement does not include controlled substances or dangerous
7 drugs as defined in Section 4021 or 4022, or a controlled
8 substance listed in Chapter 2 (commencing with Section 11053)
9 of Division 10 of the Health and Safety Code.

10 *SEC. 5. No reimbursement is required by this act pursuant to*
11 *Section 6 of Article XIII B of the California Constitution because*
12 *the only costs that may be incurred by a local agency or school*
13 *district will be incurred because this act creates a new crime or*
14 *infraction, eliminates a crime or infraction, or changes the*
15 *penalty for a crime or infraction, within the meaning of Section*
16 *17556 of the Government Code, or changes the definition of a*
17 *crime within the meaning of Section 6 of Article XIII B of the*
18 *California Constitution.*